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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,669

02/09/2004

Donald Starr

STA-2.001

1474

22874

7590

04/06/2009

GANZ LAW, P.C.

P O BOX 2200

HILLSBORO, OR 97123

EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

04/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,669	<b>Applicant(s)</b> STARR, DONALD	
	<b>Examiner</b> Christopher S. Kim	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/13/08</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 10, 2008 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Applicant elected with traverse of Group IV, Species A in the reply filed on February 5, 2008.

The requirement was made FINAL in the Office action mailed on March 24, 2008.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "two arms are horizontally disposed relative to the ground" recited in claim 48; the "swivel support tube

telescopically coupled to the tower” recited in claim 51 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claim 44 is objected to because of the following informalities: usage of “coupling to” and “connecting to” appears to be grammatically incorrect. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. Claim 48 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for each tower connecting to a wheel assembly (a plurality of towers where one tower has one wheel assembly), does not reasonably provide enablement for a plurality of towers connected to a wheel assembly (a plurality of towers all connected to the same wheel assembly). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

Claim 48 recites "the two arms are horizontally disposed relative to the ground." The specification does not appear to disclose the "two opposite arms" being horizontally disposed.

7. Claims 44-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 44, the preamble is directed to a wheel assembly but further recites further limitations directed to a mobile irrigation tower and a tire assembly of the mobile irrigation system. The preamble is directed to a subcombination (a wheel assembly) but the claim encompasses a combination (a wheel assembly, mobile irrigation tower, and a tire assembly of the mobile irrigation system). Applicant is reminded of the election of Group IV (wheel assembly), Species A in the reply filed on February 5, 2008.

Claim 44 recites the limitation "the mobile irrigation system" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 44 recites the limitation "the weight" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 45 recites the limitation "the width of the U-shaped frame" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 45 recites the limitation "the width of a desired tire assembly" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 45 recites the limitation "a desired tire assembly" in line 3. It appears to be a double inclusion of the "tire assembly" recited in claim 44.

Claim 46 recites the limitation "a tire assembly" in line 2. It appears to be a double inclusion of the "tire assembly" recited in claim 44 or the "desired tire assembly" recited in claim 45.

Claim 47 recites the limitation "a tire assembly" in line 2. It appears to be a double inclusion of the "tire assembly" recited in claim 44 or the "desired tire assembly" recited in claim 45.

Claims 44 and 53 appear to be directed to the combination that includes the wheel assembly. Therefore, claims 44-53 appear to be directed to a non-elected invention. Such claims will be withdrawn from further consideration in future Office actions as being directed to a non-elected invention.

***Claim Rejections - 35 USC § 102***

8. Claims 44, 48, 49, 50, 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Chapman (6,131,833).

Chapman discloses a wheel assembly comprising:

a frame having:

two opposite arms 32, 34;

an interconnecting member 36;

an axle assembly 66 for tire assembly 48, 50;

a gear box 65;

a force transfer member 38, 40.

### ***Response to Arguments***

9. Applicant's arguments filed November 10, 2008 have been fully considered but they are not persuasive.

Regarding Chapman, applicant argues

Applicant's claims are directed to a wheel assembly and an irrigation system comprising a generally U-shaped support frame that receives in between its opposite arms a tire assembly. An axle assembly for the tire assembly is mounted on the arms so that a tire of a tire assembly contacts the ground and elevates the support frame. The gearbox is recited in the claim to directly couple to the axle assembly of the tire assembly. Chapman fails to disclose this.

First, applicant admits that the claims are directed to a non-elected invention.

Applicant elected Group IV directed to a wheel assembly. Applicant's newly presented claims are directed to a combination of a wheel assembly and an irrigation system.

Second, Chapman discloses a a wheel assembly comprising:

a frame having:

two opposite arms 32, 34;

an interconnecting member 36;

an axle assembly 66 for tire assembly 48, 50;

a gear box 65;

a force transfer member 38, 40.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/  
Primary Examiner, Art Unit 3752

CK